

Oct 10, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT LARAMIE GOMES,

Plaintiff,

v.

YAKIMA COUNTY JAIL, YCDOC,
LEGAL RECORDS DIVISION, and
MENTAL HEALTH DEPARTMENT,

Defendants.

No. 1:19-cv-03076-SMJ

ORDER DISMISSING CASE

28 U.S.C. § 1915(g)

By order filed July 9, 2019, the Court advised Plaintiff of the deficiencies of his complaint and directed him to properly amend or voluntarily dismiss it within sixty days. ECF No. 13. A copy of the order was returned as undeliverable on July 25, 2019, with notations of “out of custody” and “unable to forward.” ECF No. 14. Plaintiff has not notified the Court of his current address.

Plaintiff, formerly a prisoner at the Yakima County Jail, is proceeding *pro se* and *in forma pauperis* in this civil action pursuant to 42 U.S.C. § 1983. The complaint and amended complaint seek injunctive relief and monetary damages regarding the conditions at the Yakima County Jail but fail to state a claim upon which relief may be granted. Because the term “person” does not encompass

1 municipal or county departments, *see United States v. Kama*, 394 F.3d 1236, 1239–
2 40 (9th Cir. 2005) (Ferguson, J., concurring), the county jail, county corrections
3 department, and various county divisions and departments, as entities of Yakima
4 County, are not proper Defendants to this action, *see Nolan v. Snohomish County*,
5 802 P.2d 792, 796 (Wash. Ct. App. 1990). Plaintiff does not adequately allege that
6 Yakima County engaged in a pattern or practice resulting in the deprivation of his
7 constitutional rights.

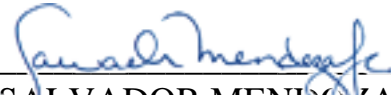
8 Plaintiff did not comply with the Court’s directive to properly amend or
9 voluntarily dismiss his complaint and has filed nothing further in this action. For
10 the reasons set forth above and in the Court’s prior order, ECF No. 13, **IT IS**
11 **ORDERED** that the complaint and amended complaint, **ECF Nos. 1 and 6**, are
12 **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief
13 may be granted under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

14 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who
15 brings three or more civil actions or appeals that are dismissed as frivolous,
16 malicious, or for failure to state a claim will be precluded from bringing any other
17 civil action or appeal *in forma pauperis* “unless the prisoner is under imminent
18 danger of serious physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read**
19 **the statutory provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff’s**
20 **complaint may count as one of the three dismissals allowed by 28 U.S.C.**

1 § 1915(g) and may adversely affect his ability to file future claims.

2 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,
3 enter judgment, provide copies to Plaintiff at his last known address, and **CLOSE**
4 the file. The Clerk's Office is further directed to provide a copy of this Order to the
5 Washington State Office of the Attorney General, Corrections Division. The Court
6 certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not
7 be taken in good faith and would lack any arguable basis in law or fact.

8 **DATED** this 10th day of October 2019.

9 
10 SALVADOR MENDEZ, JR.
United States District Judge